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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,018	10/20/2003	Maarten Menzo Wentink	050337-1290 (05CXT0069/WL)	4108
24504 7590 10/02/2008 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 600 GALLERIA PARKWAY, S.E. STE 1500 ATLANTA, GA 30339-5994				
EXAMINER TAYLOR, NICHOLAS R				
ART UNIT		PAPER NUMBER		
2141				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/689,018

**Applicant(s)**

WENTINK, MAARTEN MENZO

**Examiner**

NICHOLAS TAYLOR

**Art Unit**

2141

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-25 have been presented for examination and are rejected.

### ***Response to Arguments***

2. Applicant's arguments filed June 16th, 2008, with respect to the claims have been considered but are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 4-7, 13, 16, 17, 22, 24, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Garg et al. (U.S. PGPub 2004/0008627).
5. As per claims 1, 13, and 22, Garg teaches a method comprising:  
using a shared resource by a station; and (Garg, paragraphs 0016-0018 and figs. 1-3 where a shared medium is used)

refraining from contending for access to said shared resource for a backoff interval after the last use of said shared resource; (Garg, see paragraphs 0023, 0039-0041, 0045-0047, 0051, and fig. 4 where the system refrains from contending for access to the shared resource)

wherein said backoff interval is determined by measuring an average wait time that the station incurred during previous access attempts (Garg, see measuring average wait time of paragraphs 0029, 0043, 0045-0047, 0051, and figs. 3 and 4).

6. As per claims 2, 17, and 25, Garg teaches the system further wherein said shared resource is a shared-communications channel and wherein said transmitter communicates over said shared-communications channel in accordance with an IEEE 802.11 protocol (Garg, paragraphs 0016-0018 and figs. 1-3 where a shared medium is used in accordance with 802.11 as per paragraphs 0038 and 0039; see paragraphs 0091 and 0092).

7. As per claim 4, Garg teaches the system further wherein said backoff interval is further based on at least one of:

i) a moving average; and ii) a contention window value (Garg, see paragraphs 0039-0041 and 0045-0047).

8. As per claims 5, 16, and 24, Garg teaches the system further wherein said backoff interval comprises a time interval that is based on a random number (Garg, see, e.g., paragraphs 0039-0041).
9. As per claim 6, Garg teaches the system further wherein said time interval can assume a nonzero value only after an unsuccessful attempt to transmit occurs (Garg, see, e.g., paragraphs 0039-0041 and 0045-0047).
10. As per claim 7, Garg teaches the system further wherein said backoff interval is constrained to be at least as long as an IEEE 802.11 distributed interframe space (Garg, see overview of paragraphs 0039-0042 including the use of the distributed interframe spacing; see also paragraphs 0091 and 0092).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 3, 8-12, 14, 15, 18-21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garg et al. (U.S. PGPub 2004/0008627) and Soomro et al. (U.S. PGPub 2004/0042435).

13. As per claims 3, 14, and 23, Garg teaches the above, yet fails to teach the system further comprising powering down a receiver for at least a portion of said backoff interval.

Soomro teaches a wireless resource sharing system that uses 802.11e (Soomro, paragraph 0040-0042) while using a power saving mode to power down a receiver during backoff intervals (Soomro, paragraphs 0058-0060 and fig. 9).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Garg and Soomro to provide the power saving of Soomro in the system of Garg, because doing so would allow the advantageous and desirable use of a power-saving mode that is beneficial to 802.11 devices (Soomro, paragraphs 0010 and 0011).

14. As per claim 15, Garg-Soomro teaches the system further wherein said receiver is also for receiving a value representing said backoff interval (Garg, see paragraphs 0023, 0039-0041, 0045-0047, 0051, and fig. 4; see also paragraphs 0048 and 0049).

15. As per claims 8 and 18, Garg teaches a method comprising:  
using a shared resource by a station; and (Garg, paragraphs 0016-0018 and figs. 1-3 where a shared medium is used)

refraining from contending for access to said shared resource for a backoff interval after the last use of said shared resource; (Garg, see paragraphs 0023, 0039-

0041, 0045-0047, 0051, and fig. 4 where the system refrains from contending for access to the shared resource)

wherein said backoff interval is determined by measuring an average wait time that the station incurred during previous access attempts (Garg, see measuring average wait time of paragraphs 0029, 0043, 0045-0047, 0051, and figs. 3 and 4).

Garg fails to teach powering down a receiver for at least a portion of said backoff interval.

Soomro teaches a wireless resource sharing system that uses 802.11e (Soomro, paragraph 0040-0042) while using a power saving mode to power down a receiver during backoff intervals (Soomro, paragraphs 0058-0060 and fig. 9).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Garg and Soomro to provide the power saving of Soomro in the system of Garg, because doing so would allow the advantageous and desirable use of a power-saving mode that is beneficial to 802.11 devices (Soomro, paragraphs 0010 and 0011).

16. As per claim 9, Garg-Soomro teaches the system further comprising transmitting a frame using said shared resource after said refraining, wherein said shared resource is a shared-communications channel (Garg, paragraphs 0016-0018 and figs. 1-3 where a shared medium is used in accordance with 802.11 as per paragraphs 0038 and 0039).

17. As per claim 10, Garg-Soomro teaches the system further wherein said backoff interval is further based on at least one of: i) a moving average; and ii) a contention window value (Garg, see, e.g., paragraphs 0039-0041 and 0045-0047).

18. As per claims 11 and 21, Garg-Soomro teaches the system further wherein said backoff interval comprises a time interval that is based on a random number (Garg, see, e.g., paragraphs 0039-0041).

19. As per claim 12, Garg-Soomro teaches the system further wherein said time interval can assume a nonzero value only after an unsuccessful attempt to transmit occurs (Garg, see, e.g., paragraphs 0039-0041 and 0045-0047).

20. As per claim 19, Garg-Soomro teaches the system further comprising an access point for: (1) determining said backoff interval; and (2) distributing a value representing said backoff interval (Garg, see paragraphs 0023, 0039-0041, 0045-0047, 0051, and fig. 4; see also paragraphs 0048 and 0049; see also fig. 1).

21. As per claim 20, Garg-Soomro teaches the system further wherein said station is also for receiving said value representing said backoff interval (Garg, see paragraphs 0023, 0039-0041, 0045-0047, 0051, and fig. 4; see also paragraphs 0048 and 0049; see also fig. 1).



***Conclusion***

22. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Taylor whose telephone number is (571) 272-3889. The examiner can normally be reached on Monday-Friday, 8:00am to 5:30pm, with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/NT/  
Nicholas Taylor  
Examiner  
Art Unit 2141

/Jason D Cardone/  
Supervisory Patent Examiner, Art Unit 2145